

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

LYMAN JACOB DEASON

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Case No. 4:05cr192
4:05cr193
4:05cr195
(Judge Brown)

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 13, 2006 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Randall Blake.

On October 20, 1998, the Defendant was sentenced by the Honorable Richard W. Vollmer, Jr. of the Southern District of Alabama to 87 months custody followed by a 5-year term of supervised release for the offense of Bank Robbery. On November 3, 2004, Defendant completed his period of imprisonment and began service of his supervised term. Jurisdiction of this case was transferred to the Eastern District of Texas on September 19, 2005.

On November 23, 2005, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the

Defendant violated the following conditions: (1) The Defendant shall refrain from the unlawful use of a controlled substance; and (2) The Defendant shall participate in a program of testing and treatment for drug and/or alcohol abuse as directed by U.S. Probation

The petition alleges that the Defendant committed the following acts: (1) On December 7, 2004, April 19, 2005, May 3, 2005, May 10, 2005, July 5, 2005, July 23, 2005, September 19, 2005, and October 11, 2005, Defendant submitted urine specimens which tested positive for marijuana; (2) On April 19, 2005, May 31, 2005, and November 1, 2005, Defendant submitted urine specimens that tested positive for cocaine; (3) Defendant failed to attend drug treatment counseling sessions at Addiction Recovery Center on March 17, 2005, April 13, 2005, May 23, 2005, July 14, 2005, July 26, 2005, July 28, 2005, August 9, 2005, September 6, 2005, September 8, 2005, September 20, 2005, October 25, 2005, November 8, 2005, November 10, 2005, and November 14, 2005; and (4) Defendant failed to report for random drug testing on February 15, 2005, June 6, 2005, August 6, 2005, September 6, 2005, September 18, 2005, and November 14, 2005.

Prior to the Government putting on its case, the Defendant entered a plea of true to all of the above listed violations. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

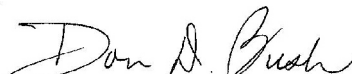
The Court recommends that the District Court revoke Defendant's supervised

release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty (20) months, to be served concurrently to any other sentence, with no supervised release to follow. The Court further recommends that Defendant be placed in the Fort Worth, Texas facility to have his medical needs evaluated and that Defendant complete a 500-hour drug treatment program while in custody.

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.A. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 15th day of February, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE